



NOTICE OF INELIGIBLE SHORT-TERM RESIDENTIAL RENTAL APPLICATION AND NOTICE OF COMPLAINT

December 18, 2023

PROPERTY OWNERS

PROJECT ARTAUD
499 ALABAMA ST
SAN FRANCISCO, CA 94110

APPLICANT

BRIAN GOGGIN
499 ALABAMA STREET, UNIT 123
SAN FRANCISCO, CA 94110

Subject Property:	499 Alabama Street, Unit 123
Assessor's Block/Lot:	3969/001
Application No.:	2023-003936STR
OSTR Staff Contact:	Dario Jones, 628.652.7405 or dario.jones@sfgov.org

The San Francisco Office of Short-Term Rentals (OSTR) regrets to inform you that we are unable to approve your application for a Short-Term Rental (STR) Certificate for the subject property for the following reasons:

1. OSTR occasionally requests records from Airbnb hosts as part of our standard compliance procedures. This practice is designed to ensure that all hosts fully comply with applicable laws.
2. Upon evaluating the number of days for your unhosted STR, it has come to our attention that you have exceeded the maximum allowable unhosted rentals for the year. Please be aware that the City's short-term rental program is designed to permit only limited short-term rentals within an individual dwelling unit where the host resides for a minimum of 275 nights annually.
3. On November 29, 2023, the Office of Short-Term Rentals (OSTR) received an anonymous complaint concerning your residency status. The complaint suggests that you are not a permanent resident and occupy a separate unit within the property in question. This concern is amplified by our review of your listing and customer reviews, especially noting the frequency of stays without a host present. It raises significant doubts about whether you reside at the property as a permanent resident.

4. It's important to note that the City's short-term rental program only allows short-term rentals in the individual dwelling unit where the host lives for at least 275 nights each year. Consequently, operating a short-term rental (STR) in a dwelling unit where you are not a permanent resident constitutes a violation of San Francisco Administrative Code, Chapter 41A.5(g)(1)(A). For context, Chapter 41A defines a permanent resident as someone who occupies a Residential Unit for at least 60 consecutive days with the intention of making it their primary residence. A Permanent Resident can be either an owner or a lessee.
5. Due to the apparent violation of Chapter 41A by your operation, your application has been denied. Furthermore, we require you to cease advertising your property on all online hosting platforms, such as Airbnb, and discontinue all short-term rentals on your property immediately. Failure to comply may result in enforcement actions, including daily fines of \$484 per dwelling unit, pursuant to Chapter 41A. Please note that the City's short-term rental program permits short-term rentals only in individual dwelling units where the host resides for at least 275 nights per year. Operating an STR in a dwelling unit where you are not considered a permanent resident is a violation of Chapter 41A.5(g)(1)(A) of the San Francisco Administrative Code.

Appeal Process:

If you wish to appeal this decision, you may file a formal written appeal to CPC.STR.Appeals@sfgov.org within 30 days of receiving this letter. Your appeal must include screenshots of any monthly booking calendars for short-term rentals from January 1, 2023, to December 20, 2023, as mandated by Chapter 41A of the San Francisco Administrative Code. Include any additional documentation to support your appeal when filing. Staff may request a site visit if a future appeal or new application is submitted.

Frequently Asked Questions - For Ineligible Applications

Are Medical, Family, or Financial Hardships or Challenges Grounds for an Exception?

These types of issues are not grounds for an exception from the City's Short-Term Rental Rules.

If I do not currently live in the dwelling unit, but plan to someday, can I still get a certificate?

No. Hosts must currently reside as permanent residents (present at least 275 nights per year) in the dwelling unit.

My unit is classified as a live/work or artist live/work unit. How can I learn more about the Notice of Special Restrictions ("NSR") and how it affects use of the unit?

Contact the OSTR staff contact, listed above; and/or view the NSR by reviewing the document recorded for your block and lot (equivalent of a parcel number – see Page 1) with the San Francisco Assessor-Recorder (1st floor of City Hall).

I thought I was already in compliance since I had a business registration certificate (business license/business account number) from the City's Treasurer and Tax Collector. Why is this an issue now? Did the law change?

Before February 2015, all paid rentals for less than 30 days in residential dwellings were illegal (no grandfathering exception exists).

After February 2015, short-term rental hosts were required to a) obtain a business registration from the tax collector; b) ensure hotel taxes (also known as transient occupancy taxes) were paid (though this is automatically remitted for hosts only using Airbnb - to the City's Tax Collector); and also c) obtain a short-term residential rental certificate from the Office of Short-Term Rentals.

In other words, since February 2015, it has been illegal to offer/advertise (online listings)/host short-term rentals (stays of LESS than 30 days), in a residential dwelling, without an approved short-term residential rental certificate, from the Office of Short-Term Rentals.

What happens if I (or my property manager) ignore this denial letter and continue to host/offer short-term stays (for guest staying less than 30 days) or honor my pre-existing pending reservations?

A notice of violation can be issued with penalties of \$484 per day, per dwelling unit. Even if you plan to file an appeal, you must cease short-term rental hosting activity. Most hosting platforms (websites) can cancel stays for you and re-book guests if you call and let them know of the extenuating circumstance.

The denial was due to my offering short-term rentals in a separate dwelling unit at the same property where I live. However, my tax bill and/or real estate appraisal shows the property as a single-family home; and does not mention multiple dwelling units. Is that grounds for an exception?

While tax bills, zoning district designations, or appraisals may list a property as a single-family home, the actual layout of the space (e.g. presence of semi-separate living spaces with full bathrooms [toilet and shower/bath], kitchen sink and kitchen counters); and/or certain City records (e.g. 3-R Reports, prior building permits

[especially those categorized as “Alterations WITH Plans”], and historic records) may demonstrate the presence of multiple dwelling units at the property.

If there are multiple dwelling units at the property, a registered host may only host short-term rentals on a LIMITED basis (e.g. no more than 90 cumulative nights of whole-unit rentals per year) in the same individual dwelling unit where they also reside at least 275 nights per year.

Can I remove the second dwelling unit and turn the home/property into just one dwelling unit; with short-term rentals offered downstairs?

The removal of dwelling units requires affirmative approval from both the Department of Building Inspection and Planning Department; and is typically discouraged by City policies. Hosts should not add or remove elements such as bedrooms, bathrooms, kitchen sinks, kitchen counters, or stoves without approval from both the Department of Building Inspection and Planning Department.

If I no longer plan to host short-term rentals, should I go ahead and close my separate business registration certificate with the Treasurer and Tax Collector?

Yes, if this is/was your only business activity in San Francisco. Visit: www.sftreasurer.org/accountupdate

Is the OSTR application fee refundable?

No.

If I hosted short-term rentals in the past do I need to pay the hotel taxes?

If you used services/hosting activity other than Airbnb, and you hosted paid short-term stays of less than 30 days, then in order to avoid potentially significant penalties you will need to ensure you pay the applicable hotel (“transient occupancy”) taxes (typically 14% of rental revenue) to the City’s Treasurer and Tax Collector; which is a separate City agency from the Office of Short-Term Rentals. Also, see the FAQ portion of the SF Business Portal at: <https://businessportal.sfgov.org/start/starter-kits/short-term-rental>.

Is there an exception from the City’s short-term rental rules for properties in the Coastal Zone?

No. In addition, the majority of residential neighborhoods (generally all areas east of 46th Avenue) in San Francisco fall outside the coastal zone.

If I switch to monthly (30-day minimum stays), or longer rentals, do I need approval from a City Agency?

Not typically, assuming the space is compliant with Planning and Building Codes.

- This information is not intended to override any lease agreements or other private restrictions (homeowner’s association bylaws, or below-market-rate program rules) that may prohibit such activity.
- If you choose to use an online listing, ensure any listing language and booking calendars clearly denotes a 30-day minimum guest stay. If you manage multiple rental properties you may still need to have a (separate) business registration certificate from the City’s Treasurer & Tax Collector.
- Ensure that any spaces (e.g. bedrooms, bathrooms, kitchen sinks, kitchen counters, cooking appliances) being offered are legally permitted.
- Ensure that (online) booking calendars clearly limit requests to book to no less than 30 days (30-day minimums per guest stay).

- No registration is required with the Office of Short-Term Rentals, for guest stays of 30 days or more, per guest.
- Please note that the Office of Short-Term Rentals cannot provide advice on (long-term) rental laws.

EXHIBIT C

Administrative Guidance Regarding the Short-Term Rental Application Process: What Happens After An Application Has Been Submitted?

(A) These guidelines are promulgated by the Office of Short-Term Rentals for the City and County of San Francisco (“OSTR”) pursuant to S.F. Administrative Code Section 41A.7(a). OSTR may update these Guidelines from time to time, including as necessary and appropriate to conform to any future amendments to Article 41A.

(B) If OSTR determines that a Short-Term Rental Application meets the criteria to obtain a Short-Term Rental Registration Number, the Residential Unit will be added to the Short-Term Residential Rental Registry. OSTR will send a Short-Term Residential Rental certificate, which contains the assigned Registration Number, to the applicant by United States mail. OSTR will also send a copy of the Short-Term Residential Rental certificate to the applicant by email, if the applicant has provided an email address to OSTR.

(C) If OSTR determines that a Short-Term Rental Application does not meet the criteria to obtain a Short-Term Rental Registration Number, OSTR shall notify the applicant in writing of the fact and basis for the determination of ineligibility (“Rejection Notice”). OSTR will send the Rejection Notice to the applicant by United States mail. OSTR will also send a copy of the Rejection Notice to the applicant by email, if the applicant has provided an email address to OSTR.

(D) The Rejection Notice shall inform the applicant of the right to submit a written appeal of the OSTR’s determination and the procedure for submitting such an appeal.

(E) A person receiving a Rejection Notice may appeal it within thirty (30) calendar days from the date the document is sent.

- 1) The appeal must: (a) be in writing and specify, in detail, the basis for the appeal; and (b) include any additional documentation, including affidavits, relating to the OSTR’s determination that the applicant would like OSTR to consider in connection with the appeal.
- 2) The appeal may be submitted to OSTR: (a) in person at 49 South Van Ness Avenue, Suite 1400 (Counter in the Planning Department Office); (b) via email to the following address: CPC.STR.Appeals@sfgov.org (preferred method); or (c) via United States mail sent to

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the following address: Office of Short-Term Rentals, Attn: Diego Sanchez,
49 South Van Ness Avenue, Suite 1400, San Francisco, CA, 94103.

(F) If a host fails to submit an appeal within the prescribed time, the OSTR's determination shall be final.

(G) Any appeal will be considered by an OSTR employee other than the employee who was primarily responsible for the initial investigation and determination.

(H) The applicant shall have the burden of proving by a preponderance of the evidence that the basis for the Rejection Notice is incorrect.

(I) Within thirty (30) calendar days of the submission of the appeal, OSTR shall either affirm or reverse its determination based upon the evidence presented. OSTR shall notify the applicant in writing of its determination. OSTR's determination shall be final upon issuance.

(J) The sole means of review of the OSTR's determination on appeal shall be by filing in the San Francisco Superior Court a petition for a writ of mandate under Section 1094.5 of the California Code of Civil Procedure.